



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 00-6273-CR-HUCK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARIEL A. HERNANDEZ,

Defendant.

ORDER ON OBJECTIONS TO ORDER AND MOTION
TO FILE §2255 PETITION OUT OF TIME

THIS CAUSE is before the Court on Defendant, Ariel A. Hernandez's Plaintiffs [sic] Objections to the Courts [sic] Orders on Motion to Hold Appellant Counsel Richard Rosenbaum in Contempt ("Objection") and Motion to File a 28 U.S.C. 2255 petition out of time ("Motion"). The Court has considered the Objections, and the Motion and pertinent portions of the record. The Objection appears to be a motion for reconsideration of the December 7, 2005 Order which denied Defendant's motion to hold his appellate lawyer in contempt. The Court finds no basis or reason for reconsidering its prior order and, therefore, the Objection, considered a motion for reconsideration, is denied.

Defendant's Motion seeks an extension of time in which to file a petition pursuant to 28 U.S.C. § 2255. This too appears to be a motion for reconsideration because the Court previously denied Defendant's motion to file a 28 U.S.C. § 2255 Motion out of Time, in its December 7, 2005 order. The Court notes that on December 29, 2005, Defendant filed a Notice of Appeal which appealed the Court's December 7, 2005 Order. Therefore, this Court is without

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jurisdiction and may not grant Defendant any relief. Even if this Court had jurisdiction, it would not grant Defendant relief. Therefore, the motion is denied. If Defendant believes that he has a credible basis for relief pursuant to 28 U.S.C. § 2255 he may file an appropriate civil suit asserting his basis for relief and for filing that suit after the statutory imposed deadlines.

DONE and ORDERED in Chambers at Miami, Florida this 3^c day of January, 2006.



PAUL C. HUCK
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Lisa Hirsch, AUSA
Richard Rosenbaum, Esq.
Ariel A. Hernandez, Pro Se